

Decision 03-05-061 May 22, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application for Barbara Anne Ufland dba Kids Xpress Transportation service for authority to operate as an infant and child common carrier between points in the counties of Solano and Napa and the cities of Vallejo, Fairfield, and Dixon and establish a Zone of Rate Freedom.

Application 01-08-046
(Filed August, 31, 2001;
amended January 21, 2003)

O P I N I O N

Summary

This decision grants the application of Barbara Anne Ufland (Applicant), an individual, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a Zone of Rate Freedom (ZORF), pursuant to Pub. Util. Code § 454.2.

Discussion

The application, as amended January 21, 2003, requests authority to operate as an on-call PSC specializing in the transportation of children between points in Solano and Napa Counties, and to establish a ZORF. By letter dated March 10, 2003, Applicant clarified some issues regarding the application.

Applicant will use one van. She will operate initially between Vallejo and Fairfield. The proposed fare for this service is \$8 per child. Applicant will offer expanded services between other points in the Counties of Solano and Napa after establishing her initial operations, for which she will charge higher fares.

Attached to the application is an unaudited balance sheet that discloses assets of \$31,952, liabilities of \$16,820, and net worth of \$15,132.

Applicant also requests authority to establish a ZORF of \$10 above and below any of the authorized fares of \$20 and under, and \$15 above and below any of the authorized fares of \$21 and over, which will be published in her tariff to be filed with the Commission. The minimum fare is \$8. While public transit exists in parts of the proposed service area, and taxicabs are generally available, the principal competition for this type of service is the private automobile. If Applicant prices her service too high, parents will likely transport their children themselves or seek other arrangements, such as carpooling. This should serve to keep Applicant's fares at a reasonable level under the ZORF.

Decision (D.) 97-07-063 in Rulemaking 95-08-002 adopted rules applicable to carriers primarily engaged in the transportation of unaccompanied children¹ under the age of 18 years in vehicles that accommodate not more than ten persons, except carriers utilizing valid youth bus vehicles, as defined in Vehicle Code § 680, whose seating capacity is sixteen passengers or less, and operate as a common carrier. These rules, contained in Appendix A of the decision, are applicable to the requested service of Applicant, and are in addition to any other requirements applicable to all PSCs.

Notice of filing of the application, as amended, appeared in the Commission's Daily Calendar on August 28, 2001, and January 23, 2003. Applicant notified the affected transit operators and involved counties.

¹ "Unaccompanied children" as used in D.97-07-063 includes transportation of an affiliated adult accompanying a child during, or incidental to, the transportation at issue.

Applicant also notified each public pediatric health director and the superintendent of each public school district in the proposed service area. Additionally, Applicant had a notice of the proposed service published in the *Times-Herald*, a California newspaper of general circulation, on June 22 and 23, 2002, in compliance with Ordering Paragraphs 7 and 8 of D.97-07-063.

In Resolution ALJ 176-3072 dated October 2, 2001, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3072.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The amended application requests authority to operate as an on-call PSC, primarily to transport children, between points and places in Napa and Solano Counties.
2. Public convenience and necessity requires the proposed service.
3. Rules and regulations for the transportation of children contained in Appendix A of D.97-07-063 are applicable to the service involved in this application.
4. Applicant has complied with Ordering Paragraphs 7 and 8 of D.97-07-063.
5. Applicant requests authority to establish a ZORF of \$10 above and below any of the authorized fares of \$20 and under, and \$15 above and below any of the

authorized fares of \$21 and over, which will be published in her tariff. The minimum fare is \$8.

6. Applicant will compete with private automobiles, taxicabs, and public transit in her operations. The ZORF is fair and reasonable.

7. No protest to the application has been filed.

8. A public hearing is not necessary.

9. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application, as amended, should be granted.

2. Applicant should be required to comply with the rules and regulations contained in Appendix A of D.97-07-063, in addition to any other requirements applicable to all PSCs.

3. The request for a ZORF should be granted.

4. Before Applicant changes any fares under the ZORF authorized below, Applicant should give this Commission at least 10 days' notice. The tariff should show between each pair of service points the high and low ends of the ZORF and the then currently effective fare.

5. Since the matter is uncontested, the decision should be effective on the date it is signed.

6. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Barbara Anne Ufland (Applicant), an individual, authorizing her to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport primarily unaccompanied children under the age of 18 years and affiliated adults who are being transported in accordance with the rules and regulations contained in Appendix A of Decision 97-07-063, and their baggage, between the points and over the route set forth in Appendix PSC-14702 (CHILD-14702), subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.

- h. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.
- i. Comply with the “Adopted Rules for Infant and Children Common Carriers” contained in Appendix A of Decision 97-07-063.

3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a Zone of Rate Freedom (ZORF) of \$10 above and below any of the authorized fares of \$20 and under, and \$15 above and below any of the authorized fares of \$21 and over, published in her tariff and filed with the Commission. The minimum fare will be \$8.

4. Applicant shall file a ZORF tariff in accordance with the application on not less than 10 days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.

5. Applicant may make changes within the ZORF by filing amended tariffs on not less than 10 days' notice to the Commission and to the public. The tariff shall include between each pair of service points the authorized maximum and minimum fares and the fare to be charged.

6. In addition to posting and filing tariffs, Applicant shall post notices explaining fare changes in her terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least thirty days.

7. Applicant is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Applicant that her evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicant's vehicle for service.

8. Before beginning service to any airport, Applicant shall notify the airport's governing body. Applicant shall not operate into or on airport property unless such operations are authorized by the airport's governing body.

9. The CPCN to operate as PSC-14702 (CHILD-14702), granted herein, expires unless exercised within 120 days after the effective date of this order.

10. The Application, as amended, is granted as set forth above.

11. This proceeding is closed.

This order is effective today.

Dated May 22, 2003, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-14702
(CHILD-14702*)

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

♦Each vehicle shall contain this identifying symbol on its front and rear bumpers,
visible at a minimum of 100 feet in accordance with the rules contained in Appendix A
of Decision 97-07-063.

Issued under authority of Decision 03-05-061, dated May 22, 2003, of the Public
Utilities Commission of the State of California in Application 01-08-046.

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♦Each vehicle shall contain this identifying symbol on its front and rear bumpers, visible at a minimum of 100 feet in accordance with the rules contained in Appendix A of Decision 97-07-063.

SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

Barbara Anne Ufland, an individual, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport unaccompanied children who are under 18 years of age and their baggage, provided that children under four years of age shall be accompanied by a parent, guardian, parent or guardian approved by a family member, or an adult supervisor approved by the parent or guardian; and adults affiliated with children passengers when it is incidental to the transportation of a child. Adults may also be carried to directly pick up a child to be transported or to directly return from accompanying a child. The service shall be provided on an on-call, door-to-door basis, between points and places as described in Section II over and along the route described in Section III, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- A. When a route description is given in one direction,
it applies to operation in either direction unless
otherwise indicated.

♦Each vehicle shall contain this identifying symbol on its front and rear bumpers, visible at a minimum of 100 feet in accordance with the rules contained in Appendix A of Decision 97-07-063.

SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS (concluded).

- B. The term "on-call", as used, refers to service which is authorized to be rendered dependent on the demands of a passenger's parents, guardian or non-carrier affiliated adult supervisor designated by the parent or guardian arranging for a child passenger's transportation and for the transportation of an adult, if any, accompanying a child passenger. The tariffs shall show the conditions under which each authorized on-call service will be provided, and shall include the description of the boundary of each fare zone, except when a single fare is charged to all points within a single incorporated city.
- C. No passengers shall be transported except those having a point of origin or destination as described in Section II.

*Each vehicle shall contain this identifying symbol on its front and rear bumpers, visible at a minimum of 100 feet in accordance with the rules contained in Appendix A of Decision 97-07-063.

SECTION II. SERVICE AREA.

Points and places in Napa and Solano Counties.

SECTION III. ROUTE DESCRIPTION.

Commencing from any point in described in Section II, then over the most convenient streets, expressways, and highways to any other point described in Section II.

♦Each vehicle shall contain this identifying symbol on its front and rear bumpers, visible at a minimum of 100 feet in accordance with the rules contained in Appendix A of Decision 97-07-063.